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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,986	06/25/2003	Anthony J. Wasilewski	A-9233	3781
5642 7590 11/19/2008 SCIENTIFIC-ATLANTA, INC. INTELLECTUAL PROPERTY DEPARTMENT 5030 SUGARLOAF PARKWAY LAWRENCEVILLE, GA 30044				
EXAMINER				
CHAL LONGBIT				
ART UNIT		PAPER NUMBER		
2431				
NOTIFICATION DATE		DELIVERY MODE		
11/19/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

Office Action Summary

Application No.

10/602,986

Applicant(s)

WASILEWSKI ET AL.

Examiner

LONGBIT CHAI

Art Unit

2431

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Applicant summary of interview 9/17/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Currently pending claims are 1 – 22.

Response to Arguments

2. Upon further reviews by Office, the Affidavits filed on 1 June 2007 to support the critical feature of the amended claim limitation (filed on 8/1/2006) in order to distinguish from the prior arts is not persuasive because (a) an Affidavits filed by one of the inventors is considered as self-interested, (b) the filed Affidavits merely bears a statement without providing clear and specific evidence to substantiate the conclusive statements, and (c) the beneficial priority date appears failing to support the claimed subject matter such as "selecting for encryption ... using a identifier". Therefore, the beneficial priority date has been denied until such that Applicant can show supports since the priority date is not supported in the sense what is being claimed and the effective filing date of the claims is thus the filing date of the instant application – i.e. 6/25/2003 (without the beneficial priority date).
3. The rejection of double patenting has been withdrawn in response to the Terminal Disclaimer filed on 12 August 2008.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Candelore et al. (U.S. Patent 7,376,233) – *with incorporated by reference* of Unger et al. (U.S. Patent 2003/0026423).

As per claim 1 and 13, Candelore / Unger teaches a method for providing an instance in a conditional access system, the method comprising the steps of:

selecting for encryption a digital bit stream from a plurality of digital bit streams using an identifier (Candelore: Column 3 Line 51 – 62, Column 6 Line 16 – 22 and Column 4 Line 3 – 16: PID is used by the selective encryption encoder to determine which packets are to be encrypted according a specific encryption method);

encrypting the selected digital bit stream according to a first level encryption method to provide an encrypted instance (Candelore: Column 4 Line 13 – 16: PID is used by the selective encryption encoder to determine which packets are to be encrypted according a specific encryption method);

combining the encrypted instance with the plurality of digital bit streams to provide a partially-encrypted bit stream (Candelore: Column 6 Line 16 – 51); and

transmitting the partially-encrypted bit stream (Candelore: Figure 1).

As per claim 1 and 13, Candelore / Unger teaches a method for providing an instance in a conditional access system, the method comprising the steps of:

selecting for encryption a digital bit stream from a plurality of digital bit streams using an identifier (Unger: Para [0010] Line 1 – 7, Para [0037] Line 1 – 3, Para [0055] & Table 1: some implementation, as disclosed by Unger, of partial dual encryption involve duplicating only certain packets tagged with a given packet identifier PID – i.e. the critical packets required

for encryption that involves duplicating to achieve dual encryption purpose are chosen only for those packets identified by (i.e. tagged with) a particular packet identifier PID);

encrypting the selected digital bit stream according to a first level encryption method to provide an encrypted instance (Unger: Table 1: EA = Encryption method A for legacy system and EB = Encryption method B for conventional system);

combining the encrypted instance with the plurality of digital bit streams to provide a partially-encrypted bit stream (Unger: Figure 6: via a multiplex); and

transmitting the partially-encrypted bit stream (Unger: Figure 6).

As per claim 2, 4, 14 and 15, Candelore / Unger teaches wherein the selecting step selects the digital bit stream by identifying a predetermined packet identifier (Candelore: Column 3 Line 51 – 62, Column 6 Line 16 – 22 and Column 4 Line 3 – 16) & (Unger: Para [0010] Line 1 – 7, Para [0037] Line 1 – 3).

As per claim 3, Candelore / Unger teaches all of the selected digital bit stream is encrypted according to the first level encryption method (Unger: Table 1 and Figure 6 / E318 & Para [0054], [0072] and [0073]).

As per claim 5, Candelore / Unger teaches a portion of the selected digital bit stream is encrypted, wherein the encrypted portion and an unencrypted portion of the selected digital stream are combined with the plurality of digital bit streams (Unger: Table 1 and Figure 6 / E322 & Para [0053] - [0058]).

As per claim 6, Candelore / Unger teaches the selected digital bit stream is a program (Unger: Table 1 and Para [0055]).

As per claim 7, Candelore / Unger teaches the selected digital bit stream is an elementary digital bit stream (Unger: Table 1, Para [0087], [0109] and [0010]).

As per claim 8, Candelore / Unger teaches selecting more than one digital bit stream from the plurality of digital bit streams, wherein the more than one digital bit stream is identified by predetermined packet identifiers (Candelore: Column 3 Line 51 – 62, Column 6 Line 16 – 22 and Column 4 Line 3 – 16) & (Unger: Para [0010] Line 1 – 7, Para [0037] Line 1 – 3).

As per claim 9, Candelore / Unger teaches each of the more than one digital bit stream includes a distinct packet identifier, wherein the selecting step selects the more than one digital bit stream by identifying at least one of the distinct packet identifiers (Candelore: Column 3 Line 51 – 62, Column 6 Line 16 – 22 and Column 4 Line 3 – 16) & (Unger: Para [0010] Line 1 – 7, Para [0037] Line 1 – 3).

As per claim 10, Candelore / Unger teaches a portion of each of the more than one digital bit stream is encrypted according to the first level encryption method (Unger: Table 1 and Figure 6 / E318 & Para [0054], [0072] and [0073]).

As per claim 11, Candelore / Unger teaches all of the more than one digital bit stream is encrypted according to the first level encryption method (Unger: Table 1 and Figure 6 / E318 & Para [0054], [0072] and [0073]).

As per claim 12, Candelore / Unger teaches at least one of a portion of each of the more than one digital bit stream and all of the more than one digital bit stream is encrypted according to the first level encryption method (Unger: Table 1 and Figure 6 / E318 & Para [0054], [0072] and [0073]).

As per claim 19, Candelore / Unger teaches the at least one of the plurality of packets is selected by the packet identifier indicative of the audio stream (Candelore: Column 3 Line 51 – 62, Column 6 Line 16 – 22 and Column 4 Line 3 – 16) & (Unger: Para [0010] Line 1 – 7, Para [0037] Line 1 – 3).

As per claim 20, Candelore / Unger teaches the encrypted portion includes at least one of the plurality of packets associated with the data stream (Unger: Para [0109] and [0010]).

As per claim 21, Candelore / Unger teaches the at least one of the plurality of packets is selected by the packet identifier indicative of the data stream (Candelore: Column 3 Line 51 – 62, Column 6 Line 16 – 22 and Column 4 Line 3 – 16) & (Unger: Para [0010] Line 1 – 7, Para [0037] Line 1 – 3).

As per claim 22, Candelore / Unger teaches the encrypted portion includes at least one of the plurality of packets associated with at least one of the video stream, the audio stream, and the data stream (Unger: Table 1, Para [0087], [0109] and [0010]).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LONGBIT CHAI whose telephone number is (571)272-3788. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R. Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Longbit Chai/

Primary Examiner, Art Unit 2431